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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	C. Phillip Reay et al.	Attorney Docket No: ONAD0002
Serial No:	09/336,611	Group Art Unit: 3625
Filed:	June 18, 1999	Examiner: Haq, Naeem U.
Title:	GENERATING REVENUE FOR THE USE OF SOFTGOODS THAT ARE FREELY DISTRIBUTED OVER A NETWORK	

APPEAL BRIEF TRANSMITTAL LETTER

Bellevue, Washington 98004

September 29, 2004

TO THE COMMISSIONER FOR PATENTS:

Enclosed herewith for filing in the above-identified patent application is an Appeal Brief in triplicate. Also enclosed is our check No. 7722 in the amount of $165. Please charge any additional fees or credit any overpayment to Deposit Account No. 01-1940. A copy of this sheet is enclosed.

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Respectfully submitted,

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Date: September 29, 2004

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TO THE DIRECTOR OF THE PATENT AND TRADEMARK OFFICE:

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This is an appeal from a final rejection by Examiner Naeem Haq of Group Art Unit 3625. A Final Rejection was mailed on February 2, 2004. Appellant filed a timely Notice of Appeal on July 30, 2004 and an amendment that reduces the issues on appeal on September 28, 2004.

The jurisdiction of this board is invoked under the provisions of 35 U.S.C. § 134 and 37 C.F.R. §§ 1.191-192.

REAL PARTY OF INTEREST

The real party of interest in this appeal is hereby identified as Onadime Corporation, since all right and title in the invention and in the patent application on appeal has been assigned to Onadime Corporation, as evidenced by a chain of title from the inventors of the patent application identified above to the current assignee, as shown below:

1. From inventors **Phillip Reay** (assignment executed June 17, 1999), and **Geoffrey Coco** (assignment executed June 14, 1999) to **Onadime, Inc**. The assignment by both inventors was recorded in the Patent and Trademark Office on June 18, 1999 at Reel 010060, Frame(s) 0474.

RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to appellants, appellants' undersigned legal representative, or by the assignee of this application that will directly affect or be directly affected by or have a bearing on the Board's decision in this pending appeal.

STATUS OF THE CLAIMS

Claims 1-18, 20, 22-30, 32-41, and 45-48 remain pending in the application on appeal. Appellants hereby appeal the final rejection of Claims 1-20, 22-41, and 45-48.

STATUS OF THE AMENDMENTS

An Amendment and Request for Reconsideration in response to a non Final Office Action was entered into the record on October 31, 2003. Appellants have not filed an Amendment and Request for Reconsideration attempting to traverse all of the rejections raised in the Final Office Action dated February 2, 2004. However, an amendment placing the claims in better condition for appeal was filed in accordance with 37 C.F.R. § 41.33, before the filing of the present Appeal Brief. The Rule 41.33 amendment was filed via fax on September 28, 2004; and a receipt confirming successful transmission to the USPTO was received. At the time of the filing of this appeal brief, appellants do not know whether the amendment filed on September 28, 2004 was actually entered.

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As the amendment simply corrects formal matters, cancels claims, and places the claims in better condition for appeal, entry of the amendment would be consistent with practice under Rule 41.33.

A copy of the claims on appeal, including all amendments actually entered into the application ***and*** the amendment filed in accordance with 37 C.F.R. § 41.33 on September 28, 2004, is appended hereto.

SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1

Independent Claim 1 defines a method for facilitating the sale of a softgood (see FIGURE 4 in particular for a flowchart of the method steps). As defined in the first paragraph of page 2 of the specification as filed, a softgood is a digital product that is to be used in conjunction with a specific piece of software. Softgoods can, for example, be music files that can be played on a computer provided with a sound card and sound system using a proprietary player program, graphic art that can be displayed on a computer monitor and interactively respond to sound or other data/sensor input, and other types of audio/visual works that are playable on a computer with the proprietary software player.

In the method, a creator program is used to generate the softgood, a proprietary player program (schematically shown in window 12 of FIGURE 1B) is used for registering and playing the softgood, and an agency operating a server maintains a database 68 (FIGURES 1A and 2) recording and tracking transactions relating to the sale of the softgoods.

As defined in Claim 1, the creator program includes a unique identifier in each softgood specifically referencing the creator of the softgood (page 8, lines 17-25). Softgoods created by the creator program require a proprietary player program be used to play the softgood (page 8, line 35). The proprietary player program is configured to determine if a particular softgood is registered on the computing device on which the proprietary player program is installed before enabling playback of the softgood. If a softgood is not registered on the computing device on which the proprietary player program is installed, the proprietary player program enables playback of the softgood in a demo mode (page 4, line 34 to page 5, line 1). If a softgood is registered on the computing device on which the proprietary player program is installed, the proprietary player program enables playback of the softgood in a full mode. Registration of each softgood is implemented by creating a registration value that is accessible by the computing device. A different registration value is created for each softgood registered on the computing device (page 5, lines 1-8).

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Softgoods and the proprietary player programs are distributed to prospective purchasers. The agency responds to a purchase of a softgood by transmitting a registration value identifying the computing device used to initiate the purchase (page 5, line 5; also see page 12, line 35 to page 13, line 14). The registration value is stored by the computing device initiating the purchase, so that the proprietary player program installed on that computing device is able to play the softgood in the full mode. If the purchased softgood is moved from the computing device that initiated the purchase to a different computing device, a copy of the proprietary player program installed on the different computing device will play the softgood only in a demo mode, because the registration value resides on the initiating computing device, rather than on the different computing device. To enable the proprietary player program installed on the different computing device to play the softgood in the full mode, the registration value must be provided to the different computing device (page 15, lines 15-21).

Dependent Claim 2

Claim 2 recites that the unique identifier included in each softgood by the creator program uniquely identifies the specific copy of the creator program used to generate the softgood. Since individual copies of the creator program can be registered to different individuals, this step enables the individual creating a specific softgood to be uniquely identified (page 8, lines 6-29).

Independent Claim 8

Independent Claim 8 defines a method for facilitating the purchase of a softgood that is freely distributed to prospective purchasers (see FIGURE 4 in particular for a flowchart of method steps). The steps of this method involve softgoods (which have been defined above), player programs enabling the playback of such softgoods, and an e-commerce agency that tracks and stores data relating to the purchase of the softgoods. Prospective purchasers are able to use the player program to preview softgoods to a limited extent before the softgood is purchased. During such a preview, the purchaser possesses a complete copy of the softgood, regardless of how the softgood was obtained (page 14, lines 21-27, noting that regardless of distribution channel, the softgoods remain the same, playability being controlled entirely by the presence or absence of a registration value corresponding to that softgood on the computer the player program is executing upon). The player program enabling playback of the softgood is configured to control the quality of the playback, by determining if a registration value required for playback in the full mode is present on the computing device on which the player program is installed. If the registration value is not

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present, the player program will in enable playback of the softgood only in a demo mode (page 4, line 34 to page 5, line 1).

The method enables the purchase of a softgood from within the player program by connecting a computing device on which the player program is installed, with an e-commerce agency to initiate a network transaction (page 5, line 3; and page 6, lines 3-8, noting that use of a separate browser is possible but less preferred than implementing a purchase transaction from within the player program; see also BUY button 22 in the player program of FIGURE 1B). In response, the e-commerce agency generates a registration value that references the unique identifier of the softgood being purchased (page 5, line 5; also see page 12, line 35 to page 13, line 14). That registration value is returned to the computing device upon which the player program is installed, and used for registering the softgood on that specific computing device, so that the player program installed upon that computing device will now enable that softgood to be played in a full mode. The registration value is stored in a softgood registration file (e.g., the registry) on the computer initiating the network transaction (page 16, line 22).

Independent Claim 20

Independent Claim 20 defines a method for controlling the play of the softgood on a computer using a player program (see FIGURE 4 in particular for a flowchart of method steps). The player program can also be employed to purchase a softgood through a network transaction (page 18, lines 14-23).

The method includes the steps of enabling the user to preview the softgood on a computer within the player program. The player program used to preview the softgood is configured to determine if the softgood has been registered on the computer upon which the player program is installed, by determining if a registration value corresponding to that of the softgood is stored on the computer. Whenever a registration value corresponding to a specific softgood is present, the player program enables the specific softgood to be played in a full mode (page 5, lines 1-8). If, however, the registration value corresponding to a specific softgood is not present on the computer on which the player program is installed, the player program enables playback of the softgood only in a demo mode (page 4, line 34 to page 5, line 1).

The method further includes the step of enabling the user to purchase a softgood through a transaction conducted from within player program (page 5, line 3; page 6, lines 3-8, and BUY button 22 of FIGURE 1B). After such a transaction, the softgood is registered on the computer

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using a registration value provided during the transaction. The registration value is in part based on a unique identifier for the softgood provided by the program used to generate the softgood. Each registration value received by the computer on which the player program is installed is stored in a softgood registration file (page 16, line 22).

Independent Claim 32

Independent Claim 32 defines a system (see FIGURE 2 for a schematic view of such a system) for facilitating the purchase of the softgood. Such softgoods are freely distributed to prospective purchasers for preview prior to purchase, each such softgood including a unique identifier that is incorporated into the softgood before its distribution.

The system includes a purchaser computer having a processor and a memory in which are stored machine instructions. When executed by the processor, the machine instructions cause it to implement a plurality of functions. The system also includes a network interface coupling the computer in communication with a network, at least one user interface for input, and a display on which graphics and text are displayed.

The system also includes a remote computer having a second processor and a second memory in which are stored machine instructions that when executed by the processor, implement a plurality of functions. A second network interface couples the remote computer in communication with a network. The remote computer also includes a database containing data relating to purchases of softgoods.

Also included in the system is a softgood comprising machine instructions or media data that are loaded into the memory on the purchaser computer. Significantly, the softgood does not include any copy protection that prohibits the softgood from being freely copied and distributed.

Stored in the memory of the purchaser computer is also a player program, which is configured to use the softgood. The player program enables the softgood to be previewed to a limited extent prior to the user purchasing the softgood, enables the user to purchase the softgood in a transaction with the remote computer that is conducted over the network, registering the softgood on the purchaser computer after the softgood has been purchased, and checks for a registration value corresponding to the softgood on the purchaser computer before playback, so that when the softgood is registered on the purchaser computer, the softgood can be used by the player program beyond the limited extent of the preview (page 4, line 34 to page 5, line 1). Registration is achieved by storing a registration value provided by the remote computer during a purchase transaction in a registration

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file stored in the memory on the purchaser computer (page 5, lines 1-8).

In the system, the remote computer implements the functions of responding to a request to purchase a softgood received over the network transaction from the purchaser computer, confirming approval of credit for the user of the purchaser computer with a credit approval agency that is coupled to the network, determining the registration value of the softgood that has been purchased as a function of the unique identifier of the softgood, sending the registration value to the purchaser computer over the network to register the softgood on the purchaser's computer, and allocating a portion of the purchase price of the softgood to the creator of the softgood according to the terms of a prior agreement with the creator of the softgood (a detailed descriptions of such steps is provided on page 15, line 22 to page 17, line 7).

Independent Claim 35

Independent Claim 35 defines a system for facilitating automated sale of softgoods from which a revenue stream is returned to the creator of the softgood (see FIGURE 2 for a schematic view of such a system). Each softgood includes a unique identifier. The system includes creator computers that each execute a software program used to produce the softgoods, and to assign a unique identifier to the softgoods produced. The creators of the softgoods enter into agreements with an e-commerce agency in which the e-commerce agency agrees to facilitate automated sale of softgoods, and to return a portion of the revenue generated by these sales to the creators of the softgoods (page 8, lines 6-35).

The system also includes a server computer operated by the e-commerce agency, the server computer including a database 68 (FIGURE 2) in which data relating to the softgoods are stored. The data include unique identifiers for the softgoods. The server computer includes a network interface coupling the server computer in communication with the publicly accessible network. The server computer is configured to receive the unique identifier for a specific softgood from the creator computer used to produce that softgood. The server computer is also configured to receive the unique identifier for a specific softgood from a user's computer, when such a user initiates the purchase of a softgood by communicating with the server computer over the network. Thus, even if a creator produces a softgood and does not communicate the unique identifier of that softgood to the server of the e-commerce agency, the database of the server computer will include the unique identifier for that softgood after a user's computer communicates with the server computer to complete a purchase transaction for the softgood (page 8, lines 24-29; see also blocks 118 and 120 in

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FIGURE 4).

Independent Claim 45

Independent Claim 45 defines a method for facilitating automated sale of softgoods (see FIGURE 4 in particular for a flowchart of method steps). The steps of the method relate to a composer program used to produce softgoods, a specific player program required to play the softgoods, and an agency that implements softgood purchase transactions and maintains a database in which data relating to the sales of softgoods are stored.

In one step of the method, the composer programs are provided to creators of the softgoods. Each composer program includes a unique identifier that is included in each softgood produced by that composer program before the softgood is distributed to prospective purchasers. Each unique identifier specifically references the creator of the softgood. Each softgood generated by the composer program requires a specific player program to access the softgood, and each softgood created using the composer program does not include copy protection that prohibits the softgood from being freely copied and distributed (page 8, lines 17-35).

Another step of the method provides an agency that implements softgood purchase transactions and maintains the above noted database. Whenever a softgood is purchased, the agency provides a registration value based on the unique identifier for the softgood purchased to a computing system used to purchase the softgood (page 4, lines 19-27).

Yet another step of the method provides the specific player program required to access the softgoods produced by the composer program to prospective purchasers (page 8, line 35). Each player program is configured such that each time the player program is used to play a softgood created that was created using the composer program, the player program automatically checks the computing system on which the player program is executing to determine if a registration value corresponding to the unique identifier for that softgood has been provided to the computing system to register the softgood on that computing system. If the registration value is present on the computing system executing the player program, the player program will play at the softgood so as to provide a full range of benefits. However, if the player program determines that the computing system on which the player program is executing does not have access to the registration value corresponding to that softgood, the player program enables playback of the softgood only in a preview mode, and prompts the user to purchase a softgood in a transaction with the agency (see page4, line 34 to page 5, line 8 for a summary of such steps).

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Still another step of the method involves distributing the softgoods to prospective purchasers, wherein the distribution is not limited to a distribution over a private network (page 14, lines 21-27; and FIGURE 3).

Independent Claim 47

Independent Claim 47 defines a system for facilitating purchase of softgoods, in which copies of softgoods are freely distributed to prospective purchasers for preview prior to purchase (see FIGURE 2 in particular for a schematic view of such a system). Each softgood has a unique identifier that is included within the softgood before its distribution. The system includes a purchaser computer having a processor coupled to a memory in which a plurality of machine instructions are stored, which implement a plurality of functions when executed by the processor, a network interface coupling the purchaser computer in communication with a network, at least one user interface for input data, and a display on which graphics and text are displayed.

The system also includes a remote computer having a second processor coupled to a second memory in which a plurality of machine instructions are stored, which implement a plurality of functions when executed by the second processor, and a second network interface. The remote computer also includes a database containing data relating to purchases of softgoods.

A portion of the machine instructions loaded in the memory of the purchaser computer define a softgood, and these instructions do not include any copy protection that prohibits the softgood from being freely copied and freely distributed. Machine instructions in the memory of the purchasing computer also define a player program for accessing the softgood. The machine instructions defining the player program implement a plurality of functions when executed by the processor, including determining if a registration value corresponding to the unique identifier of the softgood that is to be played has been provided to the purchaser computer. If the registration value has been provided to the purchaser computer, the player program plays the softgood so as to provide access to its full range of benefits. If the registration value has not been provided to the purchaser computer, the player program plays the softgood, so as to provide a limited access, to enable the preview of the softgood. When the player program determines that the softgood has not been registered on the purchaser computer, the player program enables the user to connect to the remote computer to execute a purchase transaction (see blocks 112 and 114 of FIGURE 4 and the related text).

The plurality of functions implemented by the processor of the remote computer include: responding to a request from the purchaser computer to purchase a softgood, confirming credit

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approval for a purchase, determining the registration value as a function of at least the unique identifier of the softgood, sending the registration value to the purchaser computer to register the softgood on the purchaser computer, and allocating a portion of the purchase price of the softgood to the creator of the softgood (a detailed descriptions of these functions are provided on page 15, line 22 to page 17, line 7).

Dependent Claim 48

Claim 48 recites that the softgood is not encrypted. As will be discussed in detail below, the specification as filed does not explicitly state that the softgood is encrypted, or that the softgood is not encrypted. However, the context of the specification, which does not in any way teach or suggest that the softgood should be encrypted, or provide any disclosure related to how encryption (and decryption for playback of the softgood) could be implemented, or any benefits such encryption would provide, certainly supports concluding that at the time the application was filed, appellants possessed a method for distributing unencrypted softgoods, which enabled playback of unencrypted softgoods to be controlled by a player program based on a registration value, without requiring encryption or decryption of the softgood.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. A determination as to whether the invention defined by Claim 1 is patentable under 35 U.S.C. § 103(a) over Wiser (U.S. Patent No. 6,385,596), in view of admitted prior art (APA).

2. A determination as to whether the invention defined by Claim 2 is patentable under 35 U.S.C. § 103(a) over Wiser (U.S. Patent No. 6,385,596), in view of APA , further in view of Rinearson (*Word Processing with MS Word*).

3. A determination as to whether the invention defined by Claim 8 is patentable under 35 U.S.C. § 103(a) over Wiser (U.S. Patent No. 6,385,596), in view of APA, further in view of Official Notice.

4. A determination as to whether the invention defined by Claim 20 is patentable under 35 U.S.C. § 103(a) over Ronning (U.S. Patent No. 5,883,955), in view of Official Notice, further in view of Richardson (U.S. Patent No. 5,490,216).

5. A determination as to whether the invention defined by Claim 32 is patentable under 35 U.S.C. § 103(a) over Wiser (U.S. Patent No. 6,385,596), in view of APA, further in view of Official Notice.

6. A determination as to whether the invention defined by Claim 35 is patentable under

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35 U.S.C. § 103(a) over Wiser (U.S. Patent No. 6,385,596), in view of APA, further in view of Official Notice.

7. A determination as to whether the invention defined by Claim 45 is patentable under 35 U.S.C. § 103(a) over Wiser (U.S. Patent No. 6,385,596), in view of APA, further in view of Official Notice.

8. A determination as to whether the invention defined by Claim 47 is patentable under 35 U.S.C. § 103(a) over Wiser (U.S. Patent No. 6,385,596), in view of APA, further in view of Official Notice.

9. A determination as to whether the invention defined by Claim 48 is patentable under 35 U.S.C. § 112, with respect to complying the written description requirement of the first paragraph.

ARGUMENT

Rejection of Claim 1 under 35 U.S.C. § 103 over Wiser in View of APA

The Examiner has rejected Claim 1 under 35 U.S.C. § 103(a) as being obvious over Wiser (U.S. Patent No. 6,385,596) in view of appellants' admission of prior art (APA). The Examiner asserts that Wiser discloses each element recited in appellants' claims, except for distributing the player program to prospective purchasers, and argues that such distribution would have been obvious to one of ordinary skill in the art in view of the APA. Appellants respectfully disagree with the Examiner's conclusion that Wiser teaches or suggests controlling the play of the softgood with a player program using just a registration value.

As defined in the method recited in Claim 1, the player program of the present invention checks to see whether the computer upon which the player program has been installed has been provided a registration value that corresponds to the softgood that is to be played. If this registration value is not present, the player program controls playback of the softgood to enable only a demo mode to be accessed. If however, the player program determines that the registration value is present on the computer on which the player program is installed, then the player program plays the softgood in a full mode. Significantly, the server recited in Claim 1 transmits such a registration value to the computer used to implement the purchase of the softgood. Appellants respectfully request the Board to consider whether Wiser fairly teaches or suggests a server transmitting such a registration value to a purchasing computer, such that the registration value alone enables playback of the softgood in the full mode.

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Appellants recognize that Wiser discloses a system for enabling softgoods to be purchased in a network transaction. The player program described by Wiser controls playback of softgoods by determining if the softgood has access to both a media key and private key required to decrypt portions of a softgood. The specific softgood described by Wiser is referred to as media file, and the media files described by Wiser include demo portions, which can be played without decryption, and full mode portions, which require decryption for playback. The player program described by Wiser is configured to display a purchaser's passport information (the purchaser's passport includes the purchaser's private key, and other personal information, such as the credit card number of the purchaser) when the full mode portion is decrypted and played. Thus, legitimate purchasers are inhibited from providing third parties with their private key (which is required for playback of the softgood in the full mode), because their private key cannot be readily separated from their credit card data (i.e. from their passport). If the legitimate purchaser provides a copy of the media file to a third-party without also providing his or her private key (i.e. their passport), then a player program on a different computing system, lacking the purchaser's private key, can only access the demo portion of the media file.

In determining whether appellants' invention is obvious in view of Wiser, it is critical to understand what Wiser teaches. The media file disclosed by Wiser is graphically illustrated in FIGURE 2 of Wiser's disclosure. A portion of the media file labeled clip and song information 214 corresponds to the demo portion of the media file, which can be played without having the media key and private key required for decryption of the full mode portion (see column 7, lines 55-62). Also referring to FIGURE 2, the full mode portion of the media file corresponds to audio image 208 (see column 7, lines 4-46). The encryption of the audio image is fairly complex (see the portion of Wiser's disclosure entitled Purchase, column 16, line 26 through column 20, line 7). Each audio image requires a specific media key for decryption of the audio image, the media key being used by Wiser's player program to decrypt the audio image. Rather than the media key being static for each copy of a specific media file, the media key is different for each individual purchaser of the same media file. Essentially, once a consumer has initiated a purchase of a particular media file, the distribution system disclosed by Wiser will encrypt the media key for the media file that the consumer wishes to purchase using the consumer's public key. Wiser's distribution system will then send the media file to the purchaser, the media key being incorporated into the media file (see column 4, lines 4-7; and column 4, lines 36-39). Thus, only player programs having access to two

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specific data objects (a media key encrypted with the purchaser's public key, and the purchaser's private key) will be able to playback the media file in the full mode. To playback the media file in the full mode, Wiser's player program will use the consumer's private key to decrypt the media key, and then use the media key to decrypt the audio image. If the player program is unsuccessful in decrypting the audio image, the player program will use the song and clip information 214 to enable preview of the media file. Wiser teaches that the media key is incorporated into the media file (see column 4, lines 4-7; and column 4, lines 36-39) and does not teach or suggest distributing the media key separately from the media file.

Appellants respectfully submit that requiring both a media key and a private key to enable access to a softgood in a full mode (as taught by Wiser) is not equivalent to enabling access to a softgood in a full mode using simply a registration value. Note that during a purchase transaction, appellants' distribution system will provide a registration value to the purchaser's computer. During a purchase transaction, Wiser's distribution system will provide a media key (incorporated into the media file) to the purchaser. Appellants' player program will enable playback in the full mode whenever the corresponding registration value is present. However, Wiser's player program will not enable playback in the full mode if the corresponding media key is present, unless the purchaser's private key is also available for decryption. Wiser's media key and private key combination cannot logically be viewed as equivalent to appellants' registration value, because Wiser requires a purchaser's private key to enable full mode access and because Wiser does not provide for transmitting anything equivalent to the appellants' registration value to the purchaser during a purchase transaction.

It is true that both Wiser's distribution system, and appellants' invention as defined in Claim 1 facilitate the distribution of softgoods, where such softgoods can be played in a demo mode or a full mode based on evidence proving purchase of the softgood. Significantly, appellants' invention achieves the proof function without requiring as many elements as Wiser. Appellants' claimed invention requires only that a registration value be accessible on the computer used to access the softgood, as opposed to a media key and private key combination, as taught by Wiser. MPEP 2144.04 specifically indicates that the omission of an element and retention of functionality is an indicia of non-obviousness. Appellants' independent Claim 1 specifically recites that a second copy of the player program installed on a different computing device will not be able to play a softgood in the full mode unless the registration value for the softgood is provided to the second

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computing device. As disclosed by Wiser, a player program on a different computing device will require both the purchaser's media key and the purchaser's private key to enable playback in the full mode on another computer. Thus, the media key disclosed by Wiser cannot be equivalent to the registration value recited by appellants' claims, because appellants' registration value alone enables playback in a full mode, whereas Wiser's media key alone does not enable playback of the softgood in a full mode (Wiser's player program will require *both* a media key and a corresponding private key).

The cited art does not teach or suggest modifying Wiser's distribution system and player program so that playback of a softgood in a full mode is enabled simply by the presence of a registration value. It should be noted that appellants' APA referred to by the Examiner indicates that purchasers can download a software product from a network, such that a key can be sent to the purchaser to enable that software product to be unlocked, and thereafter used in a full mode. That is, the key unlocks software product. This aspect of the prior art is distinguishable from appellants' present claimed invention, because once such a software product is unlocked, the purchaser can make an unlimited number of additional copies of that software product, each of which will be fully usable on any number of different computer systems. In contrast, appellants' softgoods cannot be moved to a different computing system and played in a full mode, unless a registration value is also provided to the different computing system. Appellants' claim recites that the registration value alone enables playback in a full mode; the registration value is transmitted over a network from an e-commerce agency to the purchaser to register the softgood.

While Wiser's system and the method defined in Claim 1 each enable a player program to control playback of the softgood in either a demo mode or a full mode, they do so in distinguishably different manners. Wiser does not teach or suggest sending a registration value corresponding to a specific softgood that has been purchased, where the presence or absence of that registration value on a computing device alone controls whether full mode access of the softgood is enabled. Both Wiser and appellants have recognized the advantage of having purchasers of softgoods provide copies of the softgood purchased to third parties for demo play. To further understand how the present invention distinguishes from Wiser, it may be useful to review how a player program residing upon a third-party's computer will access a softgood that has been given to the third-party by a legitimate purchaser – in both Wiser and in accord with the invention of appellants' Claim 1. According to Wiser, the player program residing on the third-party's computer will attempt to

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decrypt the full mode portions of the softgood given to the third-party by the legitimate purchaser. Assuming that the legitimate purchaser has not also given his/her private key to the third-party, the player program on the third-party's computer will not be able to decrypt the full mode portions of the softgood, because without the legitimate purchaser's private key, the media key required to decrypt the audio image cannot be decrypted. Thus, the player program on the third-party's computer, even though it has a copy of the media key (the media key being incorporated in Wiser's media file and thus moved with the media file from one computer to a second computer), will not be able to play the softgood in the full mode. If, as the Examiner asserts, Wiser's media key is truly equivalent to appellants' registration value, moving the media file from a first computer to a second computer would enable playback in the full mode. For the player program on the third-party's computer to be able to play the media file in the full mode, the legitimate purchaser would also need to provide the third-party with the legitimate purchaser's private key. The third-party would also be able to access the media file in the full mode if the third-party contacted Wiser's distribution system to purchase his or her owned licensed copy of the media file. Access to a copy of the media file specifically licensed to the third-party will require both a media key specifically encrypted with the third-party's public key, and the third-party's private key, not simply a registration value. Significantly, for the third-party to receive a copy of the media file specifically licensed to the third-party, the third-party must receive a *new* copy of the media file, a media file that includes a media key specifically encrypted to his or her public key, to be able to access the full mode portions of the softgood.

In contrast, according to the method defined in Claim 1, when a legitimate purchaser gives a copy of a softgood to a third-party, the player program on the third-party's computer will recognize that no registration value has yet been provided to the third-party's computer. The third-party's player program will only allow access to the softgood in the demo mode. If the third-party desires to have full access to the softgood, the third-party must initiate a network transaction with appellants' server. Note that appellants' server will not need to send an entire new copy of the softgood to the third-party. Instead, appellants' server simply sends the third-party a registration value that is stored on the third-party's computer. As long as the third-party's computer has a registration value corresponding to the softgood in question, the player program residing on the third-party's computer will allow the softgood to be accessed in a full mode.

Appellants believe that the distribution system described in Claim 1 is as secure as the

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distribution system described by Wiser, without requiring the substantial server overhead required by Wiser's system (Wiser's server encrypts a media key specific to each purchasers, and then transmit a softgood to *each* purchaser). Appellants' distribution service is much simpler to implement from the server side, and still offers security to protect against unrestricted file sharing across peer–to-peer networks (because softgoods traded across such file sharing networks will only be playable in a demo mode until each recipient of such a softgood contacts the e-commerce agency to pay for the softgood and receive a registration value). In fact, in the paradigm of the present invention, peer-to-peer networks are simply an additional beneficial distribution mechanism. Furthermore, Wiser's player program must perform significantly more processing to playback a softgood, because the player program must first use the purchaser's private key to decrypt the media key, then use the media key to decrypt the audio images, for each media file, each time that media file is accessed. Appellants' invention as defined by Claim 1 does achieve similar results, but in a distinguishable and more computationally efficient manner.

One-page 8 of the final Office Action, the Examiner asserts that once a user has registered with Wiser system and provided payment, the system provides a key to decrypt the purchased media file. The Examiner appears to be arguing that Wiser teachers or suggest providing a prospective purchaser a copy of the softgood, and then in response to the prospective purchaser completing a purchase transaction, sends the purchaser only a media key to unlock the softgood already provided to the prospective purchaser for demo purposes. Wiser does not teach or suggest sending a media key interpedently of the media file. Wiser does indeed send a media key to a purchaser once a transaction has been completed. However, as noted above, Wiser clearly discloses that the media key is incorporated into the media file. Wiser simply does not teach or suggest sending a media key alone to a prospective purchaser. None of the other cited art teaches or suggests replacing a default media key in a media file with a media key encrypted with a purchaser's public key, so that only a media key (as opposed to a media file incorporating a media key) is transmitted to a purchaser as part of a purchase transaction. Note that even if Wiser's distribution system were modified such that if a prospective purchaser already had a copy of the particular media file, the distribution system would simply send a media key specifically encrypted to prospective purchaser's public key, such a modification still would not achieve an equivalent invention, because playback of the media file in the full mode would not only require the media key (i.e. a registration value), but also the prospective purchaser's private key.

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Appellants' registration value is not equivalent to Wiser's media key, because the media key alone will not enable playback of the softgood in the full mode, without the corresponding private key. Wiser's media key and private key cannot be considered in combination to be equivalent to appellants' registration value, because appellants specifically recite that the registration value is transmitted from an e-commerce server to a purchaser during a purchase transaction. The private key disclosed by Wiser is part of a passport that resides on a player program once a user is registered with Wiser's distribution system. The private keys are not distributed as part of purchase transaction, and thus cannot logically be considered to be a registration value. Appellants invention and Wiser's system achieve similar results, but do so distinguishable manners. The cited art does not teach or suggest the modifications required for Wiser's system to be equivalent to appellants' invention, absent an application of impermissible hindsight. Accordingly, appellants respectfully request the Board to overrule the Examiners rejection of Claim 1 as being obvious over Wiser, in view of APA.

Rejection of Claim 2 Under 35 U.S.C. § 103 over Wiser in view of APA

The Examiner has rejected Claim 2 under 35 U.S.C. § 103(a) as being obvious over Wiser (U.S. Patent No. 6,385,596) in view of appellants' admission of prior art (APA), further in view of Rinearson. The Examiner admits that Wiser and the APA do not teach or suggest that the unique identifier for each softgood also references a unique identifier of the specific copy of the program provided to the creator to generate the softgood. The Examiner notes that Rinearson discloses a software application (MS Word) that adds the file extension "*.doc" to each document generated with the software. The Examiner asserts that the file extension is equivalent to adding a unique identifier of the program used to generate the softgood.

While the Examiner admits that the cited art does not teach that the unique identifier for each softgood references the *specific copy* of the creator program used to generate the softgood from all other copies of the creator program, the Examiner has refused to afford any weight to such language. The Examiner asserts that such language is merely descriptive. Appellants respectfully submit that such language is not merely descriptive, and has been included in the claim structure to further limit the scope of the claims. The creator program is clearly encompassed in the scope of the invention. In rejecting Claim 1, the Examiner has made it clear that he understands that the creator program includes a unique identifier in each softgood that this generated. Claim 2 simply further limits the invention, such that the unique identifier must specifically identify the *specific copy* of the creator

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program used to generate the softgood. While the Examiner may believe that appellants ***could*** have used better language to recite such a limitation, the Examiner clearly understands the limitation appellants have attempted to include within Claim 2. There appears to be no reasonable basis to refuse to provide such a limitation any patentable weight, particularly where the Examiner clearly understands the limitation, and has admitted that the cited art does not teach or suggest such a limitation. USPTO policy and procedure clearly favors providing an applicant wide latitude in drafting claims, recognizing the inherent impreciseness of language. In this instance, the language appellants have employed clearly *has been understood* by the Examiner, and just as clearly distinguishes over the cited art. It is unreasonable to reject such a claim simply because the Examiner believes appellants should have structured the claim in a different manner. Appellants respectfully request the Board to overrule the Examiners rejection of Claim 2.

Rejection of Claim 8 Under 35 U.S.C. § 103 over Wiser in view of APA

The Examiner has rejected Claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Wiser in view of appellants' APA, and further in view of Official Notice. The Examiner asserts that Wiser discloses each element of appellants' claim, except for prospective purchasers having a complete copy of a softgood prior to purchase, and that the purchase is implemented from within the player program. Appellants respectfully disagree for the following reasons.

Claim 8 specifically recites that registration of the softgood is implemented by creating a registration value that is accessible by a computing device (i.e., by the computing device the player program which will play the softgood will execute upon). Such a registration value is transmitted to the computing device by an e-commerce agency during a network transaction. The registration value received is added to a softgood registration file on the computing device employed for the network transaction. Registration of the softgood enables the softgood to be played in the full mode, whereas softgoods that are not registered can be played only in a demo mode.

As discussed in detail above with respect to Claim 1, the media key disclosed by Wiser is not equivalent to appellants' registration value, because appellants' registration value alone in enables access to a softgood in the full mode. In contrast, the media key disclosed by Wiser does not enable access to the softgood in a full mode, unless a corresponding private key is also present. While Wiser's media keys are indeed sent as part of a network purchase transaction, the private keys disclosed by Wiser are part of a passport which is established during registration. The passport and private key are not sent to a purchaser during a purchase transaction. Thus Wiser's media keys and

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private keys in combination are not equivalent to appellants' registration value. Nothing disclosed in any art cited by the Examiner teaches or suggests modifying Wiser to replace the media key/private key combination disclosed by Wiser with a registration value.

Yet another distinguishing element not taught or suggested by the prior art is the softgood registration file defined in Claim 8, which specifically recites that each registration value received in a network transaction is added to a *softgood registration file* stored on the computing system communicating with the e-commerce agency. Wiser does not teach or suggest any data structure stored on the computing system (where the player program is executing) in which each registration value received by the computing system during a network transaction for purchasing a softgood is stored, nor do any of the other cited references. Wiser teaches a transaction ID that is appended to each media file, but does not teach or suggest combining data from different media files into a single location. The cited art simply does not teach or suggest modifying Wiser's distribution system to implement a step of creating a softgood registration file in each computing system upon which a player program resides, nor the step of adding to that registration file each registration value received by that computing system during the purchase of a softgood. Note that utilizing the terms employed by Wiser; such a registration file would include media keys for each media file purchased (as well as the private key required to decrypt the media keys). Absent the use of impermissible hindsight, there appears to be no reasonable basis for modifying Wiser to achieve such a data structure.

With respect to the Examiner's comments regarding downloading an entire media file onto a potential purchaser's computing system, such that Wiser's distribution system would need only send a media key after purchase, rather than requiring the prospective purchaser to download a second entire copy of the media file (including the media key customized to the purchaser's public key), the cited art provides no guidance to one of ordinary skill in the art as to how a media key sent independently of a media file could be properly matched to the corresponding media file. Even should one of ordinary skill in the art be able to modify Wiser to enable media keys sent independently of media files to be properly matched to one another, such a modification would still not achieve an equivalent invention, because (as discussed in detail above) Wiser's media keys alone do not enable playback of media files in the full mode, as the user's private key is also required (note the purchaser's private key is not transmitted during a purchase transaction, as is appellants' registration value).

Finally, Claim 8 specifically recites that the purchaser is able to initiate a purchase

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transaction ***from within*** the player program. The Examiner has asserted that modular programming techniques could be used to implement such functionality, and that by virtue of Official Notice such modular programming is prior art. Regardless of whether modular programming is or is not prior art, or whether or not modular programming could be used to implement such a functionality, there is simply no evidence that one of ordinary skill in the art would have been motivated to modify Wiser's player program such that a network transaction could be implemented from *within* Wiser's player program. There is no evidence that such a modification would solve any problem recognized in the art. The Examiner has not provided any evidence of any player program implementing such functionality. Simply because such functionality conceivably could be implemented using modular programming, absent other evidence, does not merit a conclusion that such a modification would indeed have been obvious. Rather it appears that such a modification impermissibly relies on hindsight.

The Examiner has asserted that modifying Wiser's player program to enable network transactions to be implemented from within the player program, rather than being implemented in a network browser, simply represents integrating a plurality of modules into a single module, and that making something integral is within the ordinary level of skill in the art. Significantly, the cited art does not teach or suggest that a player program would benefit from having the additional functionality of being able to implement a purchase transaction from within the player program. Furthermore, the case law to which the Examiner cites (for example, *In re Larson*, see MPEP 2144.04) relates to physical structures, where the function of the prior art structure and the new structure are identical. In such a circumstance, the Examiner is correct that making a multi piece structure an integral structure is generally not inventive (however, where there is some difference in functionality between the two structures, novelty can exist, as noted in the case law cited by the Examiner). With respect to appellants' invention, the player program defined in appellants' Claim 8 provides a function not provided by the prior art player program, thus the modification suggested by the Examiner is not simply a choice of engineering design where structures providing identical functions can be made out of a single component or out of a plurality of components. It appears that the Examiner is arguing that any function implemented by one program can obviously be implemented in another program. Taken to a logical extreme, no software program can be novel unless it includes a function never before implemented. That does not appear to be an accepted test for patentability. There appears no basis to conclude that the case law cited by the Examiner is

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intended to be applied to methods, or is intended to be applied to circumstances in which functions of the invention differ from the functions of the prior art.

Appellants' invention as defined by Claim 8 is distinguishable over the cited art because Wiser's media keys are not equivalent to appellants' registration values, because Wiser does not teach the step of adding a registration value for each softgood purchased to a registration file on the purchaser's computer, and because Wiser's player program does not enable implementing network transactions from within the player program itself. None of the other art cited by the Examiner, alone or in combination, teaches or suggests the modifications required to Wiser to achieve an equivalent invention. Appellants respectfully request the Board to overrule the Examiners rejection of Claim 8.

Rejection of Claim 20 under 35 U.S.C. § 103 over Ronning & Richardson in view of Official Notice

The Examiner has rejected Claim 20 under 35 U.S.C. § 103(a) as being obvious over Ronning (U.S. Patent No. 5,883,955) in view of Official Notice, and further in view of Richardson (U.S. Patent No. 5,490,216). Claim 20 is patentably distinguished over the cited art for the following reasons.

Ronning discloses sending encrypted digital data (such as software or softgoods) over a network. Before purchase the softgood can be previewed in a demo mode, using a user interface designed to enable prospective purchasers to interact with the distribution system. FIGURE 3 of Ronning's disclosure illustrates an exemplary user interface. It appears that until a purchase has been consummated, such a user interface is required to preview a softgood. According to Ronning, it is the presence or absence of an envelope that encloses a softgood (see FIGURE 2 of Ronning's disclosure) that controls whether the softgood is playable in a full mode or a demo mode. After the softgood is purchased, a copy of the software or softgood without the envelope is made available to the purchaser (column 3, lines 44-48). Note that once the purchaser has a copy of the software or softgood without the envelope, the user interface shown in FIGURE 3 is no longer required. If the digital data purchased is a software program, that software program can be installed on any computing device desired. If the digital data purchased is a softgood, then that softgood can be played using a compatible player program. Note that Ronning does not teach or suggest that the user interface shown in FIGURE 3 is required or used for playback of a softgood after purchase. That is, there is no basis for concluding that Ronning's user interface for sampling a softgood can be used to play the softgood in a full mode once the softgood has been purchased, and a copy of the softgood

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absent the envelope is sent to the purchaser. It appears the user interface shown in FIGURE 3 simply enables a prospective purchaser to sample a software product or softgood while it is protected in the envelope shown in FIGURE 2. Once the purchaser has a copy of the digital data without the envelope, the purchaser has a software product or softgood that is used independently of the user interface.

In contrast, Claim 20 recites a player program that is used to play back a softgood both in a demo mode before purchase and in a full mode after purchase. The user interface disclosed by Ronning in FIGURE 3 is not equivalent to appellants' recited player program, because Ronning's user interface is not utilized with software or softgoods that have been purchased. Claim 20 specifically recites that if a particular softgood is registered on the computer on which the player program is installed, the player program it enables playback of the particular softgood in full mode. Once a softgood has been purchased from Ronning's distribution system, there is no basis to conclude that the user interface shown in FIGURE 3 is used for playback of the softgood. Claim 20 also recites that the player program is configured to determine if they softgood is registered on the computer before enabling playback of the softgood. Based on Ronning's disclosure, the user interface shown in FIGURE 3 is only used if the softgood or software has not yet been purchased (i.e. is not yet registered). After purchase, the user interface shown in Ronning FIGURE 3 is not used to play a softgood in a full mode, thus Ronning's user interface does not determine if a softgood has been registered. None of the art cited by the Examiner, alone or in combination, suggests a player program that controls playback in both a demo mode and a full mode based on the presence or absence of a registration value. Accordingly the combination suggested by the Examiner does not achieve an equivalent invention.

Further, Claim 20 specifically recites that each registration value received in a transaction is added to a softgood registration file stored on the computing system the player program is installed upon. The art cited by the Examiner does not teach or suggest such a softgood registration file. Ronning does not teach or suggest any data structure stored on the computing system (where the player program is executing) in which each registration value received by the computing system during a transaction for purchasing a softgood is stored. The cited art simply does not teach or suggest modifying Ronning's distribution system to implement a step of creating a softgood registration file in each computing system upon which a player program resides, nor the step of adding to that registration file each registration value received by that computing system during the

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purchase of the a softgood.

On page 20 of the Final Office Action the Examiner admits that Ronning does not teach that the softgood is previewed and purchased from within the player program (apparently recognizing that Ronning's user interface is not a player program). The Examiner then goes on to assert that such a modification would be obvious because it merely makes a known element integral. As noted above such a rejection is generally applied to physical structures, where the function of the prior art structure and the new structure are identical, the only difference being the number of individual components used to fabricate each structure. In the present invention, a player program that not only enables playback of softgoods in both a full mode and a demo mode, but also implements purchase transactions represents a combination of functions not taught or suggested by prior art player programs.

Appellants' invention as defined by Claim 20 is distinguishable over the cited art because the combination of references suggested by the Examiner does not achieve an equivalent player program, configured to enable playback in a full mode or demo mode based on the presence of a registration value in a softgood registration file, and which enables preview and purchase of a softgood from within the player program. Appellants respectfully request the Board to overrule the Examiners rejection of Claim 20.

Rejection of Claim 32 under 35 U.S.C. § 103 over Wiser in view of APA and Official Notice

The Examiner has rejected Claim 32 under 35 U.S.C. § 103(a) as being unpatentable over Wiser in view of appellants' APA, and further in view of Official Notice. The Examiner asserts that Wiser discloses each element of appellants' claim, except for prospective purchasers having a complete copy of a softgood prior to purchase, and that the purchase is implemented from within the player program. Appellants respectfully disagree for the following reasons.

Appellants' invention as defined in Claim 32 is distinguishable over the combination suggested by the Examiner for substantially the same reasons as discussed above with respect to the rejection of Claim 8. The registration valued defined by appellants is not equivalent to Wiser's media keys, because Wiser's media keys alone cannot enable playback in the full mode (the private key of the purchaser is also required). None that the art cited by the Examiner teaches or suggests modifying Wiser to achieve an equivalent registration value, thus the combination of references suggested by the Examiner does not achieve an equivalent invention. Further, Claim 32 recites a data structure referred to as a registration file that is resident on a purchaser computer. The

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references cited by the Examiner, either alone or in combination, do not teach suggest an equivalent data structure. Finally, Claim 32 also recites that the player program residing on the purchaser computer enables a purchase transaction to be implemented using the player program. This represents a function that the prior art does not teach or suggest being associated with a player program, and modification of prior art player programs to include this function goes beyond making known elements integral, as discussed in detail above. Appellants therefore respectfully request the board to overrule the Examiner's rejection of Claim 32.

Rejection of Claim 35 under 35 U.S.C. § 103 over Wiser in view of APA and Official Notice

The Examiner has rejected Claim 35 under 35 U.S.C. § 103(a) as being unpatentable over Wiser in view of appellants' APA, and further in view of Official Notice. The Examiner asserts that Wiser discloses each element of appellants' claim, except for prospective purchasers having a complete copy of a softgood prior to purchase, and that the purchase is implemented from within the player program. Appellants respectfully disagree for the following reasons.

Claim 35 provides that a player program selects a mode of play (full versus demo) based on the presence of a registration value, that registration value being transmitted over a network to a purchaser's computer after a purchase transaction. As discussed in greater detail above, Wiser teaches a media key that is incorporated into a media file that is transmitted to a purchaser after a purchase transaction. The media key is used along with the purchaser's private key (the purchaser's private key not being transmitted during a purchase transaction) to enable playback of the media file in a full mode. In appellants' invention, the registration value (transmitted during a purchase transaction) alone enables playback of the softgood in the full mode. Clearly Wiser's media keys are not equivalent to appellants' registration values, and the references cited by the Examiner, either alone or in combination, do not teach or suggest modifying Wiser's media keys to achieve a registration value that alone enables playback in a full mode.

Clam 35 is further distinguishable over the combinations of references cited by the Examiner because the server computer operated by the e-commerce agency defined in Claim 35 is configured to receive a unique identifier for a softgood from a user of the softgood at a time of sale of the softgood. Wiser does teach that creators of softgoods can include identifiers in the softgoods at the time the softgoods are created. According to Wiser's distribution model, however, those softgoods (and their unique identifiers) will be included in a database operated by the online distribution service only if the creator of the softgood interacts with the online distribution service. FIGURE 1B

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of Wiser's disclosure clearly shows authoring tool 102 communicating with music distribution center 124 via licensing center 110, content manager 112, or distribution hub 104. Appellants' system as defined in Claim 35 enables the unique identifier of a softgood to be communicated to the distribution service at the time of purchase *by the user of the softgood*, as well as by the creator of the softgood communicating with the online distribution service (page8, lines 24-29; see also blocks 118 and 120 of FIGURE 4). As explained in appellants' specification is filed, appellants have contemplated that not only could softgoods be distributed online by an e-commerce agency the creator of the softgood has contracted with, softgoods could be physically distributed by the creator independently of the e-commerce agency. Thus the creator of a softgood could bypass the online distribution service and distribute his or her softgoods directly to a potential audience (or via the creator's own website, as opposed to the online distribution service's location). For example, a local music act could distribute softgoods (i.e. their music on compact discs) at their shows. In such a distribution model, the compact disc would also include a copy of the required player program (page 8, line 30 to page 9, line 5). When the recipient of such a disc attempted to play the music files contained therein, the player program would recognize that the softgood had not yet been purchased (i.e. no registration value had been received from the e-commerce agency/online distribution service). The player program will only enable playback in the demo mode. Should the recipient wish to purchase the softgood and thereby enable playback in the full mode, the recipient would connect with the online distribution service (i.e. with the e-commerce agency) to purchase the softgood, and to receive the registration value required to enable playback of the softgood in the full mode. Because the creator of the softgood had not yet provided the e-commerce agency with a copy of the softgood, the e-commerce agency would collect the information about the softgood (the identity of the creator, the purchase price the creator desires to receive, and the unique identifier of the softgood) from the softgood being played on the recipient's computer. Wiser simply does not teach or suggest such a distribution model, nor does any of the other art cited by the Examiner. Thus the combination of references suggested by the Examiner does not achieve an equivalent invention, where the server computer operated by the e-commerce agency is configured to receive the unique identifier for a softgood from the user of the softgood at time of sale. Appellants' FIGURE 1A and FIGURE 4 (particularly decision block 120) and the corresponding text in appellants' application describe this distribution process (in which the softgood is directly distributed to users, before the e-commerce agency has received a copy of the softgood for its database).

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Because the combination suggested by the Examiner does not achieve a registration value that alone controls playback of the softgood in the full mode or demo mode, or an e-commerce server configured to receive unique identifiers associated with a softgood from a user/purchaser of the softgood at the time of sale, appellants respectfully request of the Board to overrule the Examiner's rejection of Claim 35.

Rejection of Claim 45 under 35 U.S.C. § 103 over Wiser in view of APA and Official Notice

The Examiner has rejected Claim 45 under 35 U.S.C. § 103(a) as being unpatentable over Wiser in view of appellants' APA, and further in view of Official Notice. The Examiner asserts that Wiser discloses each element of appellants' claim, except for prospective purchasers having a complete copy of a softgood prior to purchase, and that the purchase is implemented from within the player program. Appellants respectfully disagree for the following reasons.

Claim 45 defines a method for facilitating an automated sale of softgoods, in which the softgoods require a specific player program to access. The method includes the step of distributing a specific player program to prospective purchasers such that each time the specific player program is used to play a softgood, the specific player program automatically checks the computing system on which the specific player program is executing to determine if a registration value corresponding to the softgood has been provided to the computing system (to register the softgood). If so, the player program plays the softgood in a full mode. If a registration value corresponding to the softgood is not found on the computing system the player program is executing on, the player program enables playback of the softgood only in a demo mode. As discussed in detail above, Wiser's player program requires both media key and a private key to enable playback in the full mode, and only the media keys are transmitted by the e-commerce agency during a purchase transaction. Thus Wiser's media keys are not equivalent to appellants' registration values, and the references cited by the Examiner, either alone or in combination, do not teach or suggest modifying Wiser's media keys to achieve a registration value that alone enables playback in a full mode.

Because the combination suggested by the Examiner does not achieve a registration value that alone controls playback of the softgood in the full mode or demo mode, appellants respectfully request of the Board to overrule the Examiner's rejection of Claim 45.

Rejection of Claim 47 under 35 U.S.C. § 103 over Wiser in view of APA and Official Notice

The Examiner has rejected Claim 47 under 35 U.S.C. § 103(a) as being unpatentable over Wiser in view of appellants' APA, and further in view of Official Notice. The Examiner asserts that

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Wiser discloses each element of appellants claim, except for prospective purchasers having a complete copy of a softgood prior to purchase, and that the purchase is implemented from within the player program. Appellants respectfully disagree for the following reasons.

The player program defined in Claim 47 enables playback of a softgood in either a full mode or a demo mode based only on the presence of registration value that is transmitted to the player program during a purchase transaction. As discussed in great detail above, the registration value defined by appellants is distinguishable over the private keys and media keys disclosed in the cited art, and the cited art, either alone or in combination, does not teach or suggest modifying Wiser's media keys and private keys to achieve an equivalent invention.

Claim 47 additionally recites machine instructions that implement the function of communicating with the database on the remote computer over the network to determine if an authorized user of the purchaser computer has previously purchased the softgood that is to be played, if a registration value corresponding to the unique identifier of the softgood that is to be played has not been provided to the purchaser computer. If it is determined that an authorized user of the purchaser computer has previously purchased the softgood that is to be played, the machine instructions defining the player program enables playback of the softgood so as to provide access to its full range of benefits.

Wiser does not teach a player program that contacts an e-commerce agency to determine if an authorized user of the computer on which the player program resides has purchased the softgood to be played. Wiser's player program either has a media key and a private key enabling decryption of the softgood, or Wiser's player program enables only preview of the softgood. The APA discloses software that is locked or unlocked, and does not teach or suggest contacting an e-commerce agency to see if an authorized user of the computer has purchased the softgood. For this additional reason, Claim 47 is distinguishable over the cited art. Accordingly, appellants respectfully request the board to overrule the Examiner's rejection of Claim 47.

Rejection of Claim 48 under 35 U.S.C. § 112 for Lack of a Written Description

The Examiner has rejected Claim 48 under 35 U.S.C. § 112 for failing to comply with the written description requirement. The Examiner asserts that because the specification as filed does not explicitly include the term "unencrypted," that appellants' application as filed failed to reasonably convey to one of ordinary skill in the art that the softgoods described therein were unencrypted.

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The Examiner is correct that the specification as filed does note explicitly state that the softgoods described therein are not encrypted. However, the written description requirement only requires that the specification as filed *reasonably convey* to one of ordinary skill in the art that at the time the specification was filed, that the inventors did indeed possess the claimed invention. There appears to be no basis to conclude that one of ordinary skill in the art, upon reading the specification as filed, would not have understood that the softgoods described and claimed ***are not encrypted.***

Significantly, the application as filed includes absolutely no disclosure which teaches or suggests how a softgood might be encrypted (i.e. what algorithms might be beneficially employed for encryption), what types of decryption the player program needs to be configured to support (if the softgoods are encrypted, then the player program must be able to decrypt the softgoods for playback), or any benefits such encryption might provide.

The specification as filed does disclose details relating to encrypting credit card data or other financial information utilized by a purchaser when purchasing a softgood. Further, the specification discloses that the registration value itself might be encrypted by the e-commerce agency before being sent to the purchaser to register a softgood (note the registration value is sent separately from the softgood). However, such encryption is clearly related to the financial data and registration value, not the softgood itself.

> If a credit card or other financial account number is included in the transmission from the player program to the e-commerce server, the player program will encrypt the transmission to minimize the risk that a third party may intercept it and gain access to the user's credit card information. The player program preferably encrypts this transmission automatically, in response to entry of a credit card or other financial account number in the dialog, so that the user is not involved in even making the decision to encrypt the transmission (page 12, lines 15-22).
>
> A block 44 in FIGURE 1B indicates that the transmission is sent over the Internet (or other network) to the e-commerce server, which decrypts the transmission (if encrypted). Also included in the transmission, although not evident to the user, is a user identification that provides the user's name, for association with the credit card or other financial account number. The e-commerce server automatically connects to a credit card or other financial account approval service over the Internet (or over an alternative network), as indicated in a block 46, to determine if the user's financial account number is valid and if the transaction is approved. The communication between the e-commerce server and the approval service is preferably conducted through a secure socket layer (SSL) connection or other secure connection to ensure the security of the data being transmitted between the two entities by preventing interception of the communication by a third party (page 12, lines 23-34).

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> The registration value or ID for a softgood may be encrypted, or encoded by logically combining binary values for these three variables (page 13, lines 9-11).
>
> In a decision block 130, the e-commerce server determines if the credit card or other financial account information has been approved by the approval agency and if so, a block 132 indicates that the e-commerce server logs the transaction and sends a softgood registration value or ID (which may be encrypted or encoded) to the player program, and optionally e-mails the registration value or ID to the user (page 16, lines 15-20).

It must also be noted that applicants' specification clearly describes softgoods being distributed over a network, or *via distribution of memory media on which the softgood is stored* (page 4, lines 21-22). Even if all softgoods distributed over a network are assumed to be encrypted (and there is no disclosure providing ***any*** support for such a conclusion), there is no basis for concluding that softgoods distributed via memory media are encrypted. The present invention is clearly directed to controlling the playability of a softgood by configuring a player program to require a registration value to enable full playback, else playing the softgood in a demo mode. Encryption of the softgood does not affect the player program's control of playback.

It also must be recognized that encryption of softgoods requires some decryption before the softgood can be used, and no such decryption process of the softgood is described, which clearly ought to imply that the softgoods are unencrypted. Furthermore, applicants' specification clearly teaches that a goal of the invention is that people *will* copy and widely distribute the softgoods.

> An important underlying premise in the economic model used for marketing softgoods and selling them in accord with the present invention is that the softgoods be freely distributed over the Internet and through other distribution channels to provide as many shared copies of the softgood to prospective purchasers as possible, thereby maximizing the opportunity for preview and sale of the softgoods, as indicated in a block 104. The Internet or other network provides an expedient way to achieve this widespread distribution (page 14, lines 21-27).
>
> The present invention assumes that the softgoods will be freely distributed through rampant copying and other mass distribution techniques to ensure the widest possible preview of the softgoods, thereby tending to increase the numbers of prospective purchasers who will be interested in purchasing the softgoods (page 17, lines 9-11).

Each softgood thus distributed will be playable in a demo mode until the computer the player program resides on receives a registration value indicating the player program can play the softgood in a full mode. If the softgood was encrypted, then the distribution scheme noted above could not be

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supported, as prospective users would have no way to decrypt the softgood to preview it. Thus encrypted softgoods are logically inconsistent with a fundamental aspect of the present invention, and it is not logical to conclude that the specification implies that the softgoods are encrypted. It is significant to note that in the context of the present invention encryption of the softgood provides no benefit (as the softgood cannot be played in full mode without the registration value), and that encryption would require providing some undisclosed mechanism to enable prospective purchasers to decrypt the softgood to preview it.

The written description requirement is intended to ensure that any limitation introduced into a claim during prosecution is consistent with the specification, such that the specification as filed *reasonably conveys* to one of ordinary skill in the art a specifically claimed limitation. Consider a hypothetical patent application that describes and claims a computing system used to manipulate a data packet. The computing system described is a conventional computing system including a processor, memory media, and machine instructions implementing a plurality of functions when executed by the processor (such functions including the manipulation of the data packet), and the specification specifically discloses that IBM compatible computers are utilized in the preferred embodiment. The specification as filed fails to include any disclosure about manipulating the data signal using an analog to digital converter to convert analog data into a digital data before providing the data packet to the computing system. During prosecution a claim is amended to recite that the data packet manipulated by the computing system is ***digital*** data. The specification of the hypothetical patent application as filed does not explicitly state the data packet is digital data, but logically one of ordinary skill in the art of computing technology could come to no other conclusion but that the data was digital (conventional computing systems process digital data, and if analog data is to be processed using such a computing system then an analog to digital converter is required). In the present invention, there appears no logical basis to conclude other than the specification as filed reasonably conveys that the described and claimed softgoods are not encrypted. There is no disclosure relating to encrypted softgoods, there is no disclosure as to what algorithms to employ in such encryption, there is no disclosure about configuring a player program to decrypt a softgood, and there is no disclosure about any potential benefits of such encryption. Accordingly, appellants respectfully request the Board overrule the Examiner's rejection of Claim 48, based on the Examiner's conclusion that the specification as filed fails to reasonably convey to one of ordinary skill in the art that the softgoods described in the specification are not encrypted.

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Appellants respectfully note that encryption should not be confused with checking a registry file to determine if a registration value is present before enabling playback. Playback of an encrypted softgood will require decryption of the softgood, a process that is fundamentally different than looking for a registry value before proceeding with playback. In encryption/decryption, the data defining the softgood is manipulated, whereas checking a registry file requires no manipulation of the softgood. Therefore there is no inconsistency in defining appellants softgoods as being unencrypted, even though they are protected from unauthorized playback by a registration value.

CONCLUSION

The combination of prior art cited by the Examiner in rejecting Claims 1, 2, 8, 20, 32, 35, 45 and 47 as unpatentable under 35 U.S.C. § 103 does not teach or suggest the invention defined by appellants in these claims. Specifically, the cited art fails to teach or suggest transmitting a registration value from an e-commerce server to a purchaser's computer (where a player program attempting to play a softgood resides) during a purchase transaction, where the registration value that is transmitted alone determines whether the player program will play the softgood in a full mode or a demo mode.

The most closely related art, Wiser, discloses a player program that receives a media key from an e-commerce server during a purchase transaction. However, the media keys disclosed by Wiser do not enable a softgood to be played in a full mode, until combined with the purchaser's private key. If the purchaser gives a third-party the softgood and the media key (which are combined in a single media file), the softgood cannot be played by the third-party's player program in a full mode, unless the third-party is also given the purchaser's private key. In the invention defined by appellants' claims, if the purchaser gives a third-party the softgood and the registration value (assuming the registration value provided was properly saved in a registration file accessed by the player program before enabling playback to determine if the softgood was licensed), the softgood can be played by the third-party's player program in a full mode. The private key and media keys disclosed by Wiser cannot be considered to be equivalent to appellants' registration value, because the purchaser's private key is not sent to the purchaser's computer by the e-commerce agency as part of a purchase transaction for a softgood (the private key is sent to the purchaser only during registration with the e-commerce agency). None of the art cited, alone or in combination, teaches or suggests modifying Wiser's player program to determine whether to playback a softgood in a full

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mode or demo mode based simply on a registration value.

Additional distinguishing elements recited in appellants' claims include a softgood registration file where all registration values received from an e-commerce agency are collectively stored, an e-commerce server configured to receive a unique identifier for a softgood from a softgood a purchaser possesses and wishes to register (to enable playback of the softgood in the full mode), a player program that enables preview and purchase from within the player program, and a unique identifier associated with each softgood that references the specific copy of the creator program used to produce the softgood.

Further, as discussed above, appellants' application as filed does reasonably convey to those of ordinary skill that the softgoods described and claimed by appellants are unencrypted.

Appellants therefore request that the Board of Patent Appeals and Interferences overrule the Examiner's rejection of the claims and instruct that this application be passed to issue without delay.

Respectfully submitted,

Ron Anderson

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 29, 2004.

Date: September 29, 2004

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APPENDIX

Claims on Appeal:

1. A method for facilitating automated sale of softgoods, comprising the steps of:

(a) providing a creator program to a creator of the softgoods that automatically includes a unique identifier in each softgood before the softgood is distributed to prospective purchasers, said unique identifier specifically referencing the creator of the softgoods, the creator program producing softgoods that require the use of a proprietary player program to enable playback of softgoods authored with the creator program, the proprietary player program being configured to determine if the softgood is registered on the computing device on which the proprietary player program is installed before enabling playback of a softgood that was produced by the creator program, so that if a softgood is not registered on the computing device on which the proprietary player program is installed, the proprietary player program enables playback of said softgood in a demo mode, and if the softgood is registered on the computing device on which the proprietary player program is installed, the proprietary player program enables playback of said softgood in a full mode, wherein registration of the softgood is implemented by creating a registration value that is accessible by the computing device, a different registration value being created for each softgood registered on the computing device;

(b) distributing the softgoods and the proprietary player program to prospective purchasers, such that the distribution is not limited to a distribution over private networks; and

(c) providing an agency having a server that implements softgood purchase transactions and maintains a database in which data relating to the sale of softgoods are stored, unique identifiers of the softgoods being referenced in the database to track the softgood purchase transactions, such that for softgoods that are purchased, the database maintains data relating to purchasers of the softgoods for as long as the agency is managing purchases of the softgoods, said agency responding to a purchase of a softgood by transmitting the registration value identifying the softgood that was purchased to a first computing device used to initiate the purchase, so that a first copy of the proprietary player program installed on the first computing device will recognize that the softgood that was purchased is registered on the first computing device and thus enable playback of

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the softgood that was purchased in the full mode, whereas a second copy of the proprietary player program installed on a different computing device does not enable playback of the softgood that was purchased in the full mode, unless the registration value for the softgood that was purchased is provided to the different computing device, thereby registering the softgood that was purchased on the different computing device.

2. The method of Claim 1, wherein the unique identifier for each softgood also references a unique identifier for the creator program provided to the creator and used to create the softgood, the unique identifier distinguishing the specific copy of the creator program used by the creator from all other copies of the creator program.

3. The method of Claim 1, wherein the creator program automatically communicates the unique identifier for the softgood over a network to the server for storage in the database.

4. The method of Claim 1, wherein the unique identifier of the softgood is communicated to the agency for storage in the database by the server during the purchase transaction for said softgood.

5. The method of Claim 1, further comprising the step of automatically including a base price within each softgood prior to the step of distributing the softgoods.

6. The method of Claim 1, wherein the registration value for the purchased softgood transmitted by the agency includes an identity of the purchaser, so that the registration value for the softgood that was purchased cannot be registered on an additional computing device to enable a copy of the proprietary player program installed on the additional computing device to playback the softgood in the full mode, unless the purchaser is identified as an authorized user of the additional computing device.

7. The method of Claim 1, wherein the unique identifier for a softgood is communicated to the agency and entered into the database when the softgood is first purchased.

8. A method for facilitating purchase of a softgood that is freely distributed to prospective purchasers for preview within a player program and which includes a unique identifier that is assigned to the softgood before the softgood is distributed, comprising the steps of:

(a) enabling prospective purchasers to preview the softgood with the player program to a limited extent, prior to deciding to purchase the softgood, wherein during such preview, a prospective purchaser possesses a complete copy of the softgood, regardless of how the softgood was obtained, but the player program controls access to the softgood and allows the prospective purchaser

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only limited access to the softgood, the player program being configured to determine if the softgood is registered on the computing device on which the player program is installed before enabling playback of a softgood, so that if a softgood is not registered on the computing device on which the player program is installed, the player program enables playback of said softgood in a demo mode, and if the softgood is registered on the computing device on which the player program is installed, the player program enables playback of said softgood in a full mode, wherein registration of the softgood is implemented by creating a registration value that is accessible by the computing device;

(b) enabling purchase of the softgood from within the player program by connecting a computer on which the player program is executing with an e-commerce agency to initiate a network transaction, purchase of the softgood causing data related to the purchase to be recorded in a database of the e-commerce agency and causing a registration value that references the unique identifier to be transmitted to the computer on which the player program is executing, a different registration value being provided for each softgood that is purchased; and

(c) registering the softgood on the computer employed for the network transaction using the registration value provided by the e-commerce agency, each registration value received being added to a softgood registration file stored on the computer employed for the network transaction, registration of the softgood on the computer enabling the softgood to be played by the player program beyond the limited extent of the preview, the program player thereafter allowing a purchaser who has thus purchased the softgood to fully access the softgood.

9. The method of Claim 8, further comprising the step of including at least one of an identification of a creator of the softgood, an identification of a specific copy of a software product used to produce the softgood, and a price in the softgood, prior to its distribution.

10. The method of Claim 8, further comprising the steps of using the player program to transmit an identification of a purchaser of the softgood to the e-commerce agency during the network transaction, to enable the e-commerce agency to debit a financial account of the purchaser for a purchase price of the softgood.

11. The method of Claim 10, wherein financial account numbers of purchasers of softgoods are stored in the database, a financial account number of a purchaser being used to debit an account of said purchaser as a result of the network transaction.

12. The method of Claim 8, wherein the step of registering comprises the step of modifying the softgood to include the registration value and recording the registration value in a file, said

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registration value referencing at least one of an identification of the player program, an identification of the user, and the unique identifier for the softgood.

13. The method of Claim 8, further comprising the step of including a prohibition of a purchaser modifying the softgood within the softgood.

14. The method of Claim 8, further comprising the step of registering each instance of the player program with a player identification in the database of the e-commerce agency.

15. The method of Claim 14, wherein the registration value comprises a combination of at least two of: the unique softgood identification, the player identification, and an identification of the purchaser of the softgood.

16. The method of Claim 8, wherein the softgood is not usable on the computer for more than a predefined number of times, unless registered on the computer.

17. The method of Claim 8, wherein the step of enabling prospective purchasers to preview the softgood comprises the step of permitting the softgood to be played with only a substantially reduced quality, unless registered on the computer.

18. The method of Claim 8, further comprising the step of sending a message over the network to advise a purchaser of the registration value that was used to register the softgood on the computer of the purchaser.

19. (Cancelled)

20. A method for controlling play of a softgood on a computer using a player program, said player program also being employed to purchase the softgood through a network transaction, comprising the steps of:

(a) enabling a user to preview the softgood on the computer within the player program, the player program being configured to determine if the softgood is registered on the computer on which the player program is installed before enabling playback of a softgood, so that if a particular softgood is not registered on the computer on which the player program is installed, the player program enables playback of the particular softgood in a demo mode, and if the particular softgood is registered on the computer on which the player program is installed, the player program enables playback of the particular softgood in a full mode, wherein the registration is implemented by providing a registration value, a different registration value being required for each softgood; and

(b) enabling the user to purchase the softgood through a transaction conducted from within the player program, such that after the user has purchased the softgood, the softgood is

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registered on the computer using a registration value provided during the transaction, said registration value being based in part on a unique identifier for the softgood provided by a software program used to create the softgood, each registration value received being added to a softgood registration file stored on the computer, registration of the softgood on the computer providing access to the softgood in accord with a license to the softgood so that it is thereafter playable on the computer with the player program beyond a preview limit.

21. (Canceled)

22. The method of Claim 20, wherein if the softgood is transferred to a different computer after being purchased, the softgood must again be registered on the different computer to enable the softgood to be played beyond the preview limit on the different computer.

23. The method of Claim 20, wherein the registration value is further based on at least one of:

(a) name of the purchaser of the unencrypted softgood;

(b) a unique identifier for the player program; and

(c) an identifier for a creator of the softgood.

24. The method of Claim 20, wherein the step of enabling the user to purchase the softgood through a transaction conducted from within the player program comprises the steps of:

(a) confirming that a financial account number provided by a purchaser is valid and is approved for purchase of the softgood by checking the financial account number with an approval service during the transaction; and if the financial account number is valid and approved,

(b) transmitting the registration value to the purchaser; and if not,

(c) advising the purchaser that purchase of the softgood was disapproved.

25. The method of Claim 20, further comprising the step of maintaining a database on an e-commerce server in which an identification of each purchaser and a list of each softgood purchased by each purchaser are included, to facilitate distribution of at least a portion of the purchase price of the softgood to a creator of the softgood, and to store the registration value so that the purchaser can again reregister the softgood on a computer if the registration of the softgood on the computer is lost.

26. The method of Claim 25, wherein data stored in the database also include a financial account number for each purchaser of softgoods, said financial account numbers being provided by

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the purchasers, further comprising the step of charging the financial account referenced by the financial account number of a purchaser during the transaction.

27. The method of Claim 26, further comprising the step of encrypting the financial account number for transmittal over the network to the database.

28. The method of Claim 27, wherein the player program is used to encrypt a communication for transmission over the network during the transaction.

29. The method of Claim 25, wherein the database also includes a current price for each softgood, further comprising the step of advising a purchaser of the current price of the softgood being purchased during the transaction.

30. The method of Claim 21, further comprising the step of employing the player program to transmit information over a network to an e-commerce agency to implement purchase of a softgood, using a secure communication protocol.

31. (Cancelled)

32. A system for facilitating purchase of a softgood of which copies are freely distributed to prospective purchasers for preview prior to purchase, said softgood having a unique identifier that is included within the softgood before its distribution, comprising:

(a) a purchaser computer that includes a first processor, a first memory in which a plurality of machine instructions are stored that implement a plurality of functions when executed by the processor, a first network interface coupling the computer in communication with a network, at least one user interface for input of data to the memory, and a display on which graphics and text are displayed;

(b) a remote computer that includes a second processor, a second memory in which are stored a plurality of machine instructions that implement a plurality of functions when executed by the second processor, and in which a database containing data relating to purchases of softgoods are stored, a second network interface coupling the remote computer in communication with the network and thereby selectively coupling the remote computer in data communication with the purchaser computer via the network;

(c) a softgood comprising machine instructions or media data that are loaded into the first memory of the purchaser computer, the softgood not including any copy protection that prohibits the softgood from being freely copied and freely distributed, other of the machine instructions stored in the first memory comprising a player program that uses the softgood, said

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player program carrying out a plurality of the functions when the machine instructions of the player program are executed by the first processor, including:

(i) enabling the softgood to be previewed to a limited extent prior to the user purchasing the softgood;

(ii) enabling the user to purchase the softgood in a transaction with the remote computer that is conducted over the network;

(iii) registering the softgood on the purchaser computer after the softgood has been purchased, said softgood being thus registered using a registration value provided by the remote computer, each registration value received being added to a registration file stored on the purchaser computer; and

(iv) checking for a registration of the softgood on the purchaser computer and enabling the softgood to be used by the player program beyond the limited extent of the preview only if the softgood is determined to be registered on the purchaser computer; and

(d) wherein said plurality of functions implemented by said second processor in the remote computer include:

(i) responding to a request to purchase the softgood received over the network from the purchaser computer;

(ii) confirming an approval of a credit purchase by the user of the purchaser computer with a credit approval agency that is coupled to the network;

(iii) determining the registration value as a function of at least the unique identifier of the softgood and sending the registration value to the purchaser computer over the network to register the softgood on the purchaser computer, each registration value received being added to the registration file stored on the purchaser computer; and

(iv) allocating a portion of a purchase price of the softgood set by terms of a prior agreement to a creator of the softgood.

33. The system of Claim 32, wherein the plurality of functions implemented by the second processor include:

(a) checking the data stored in the database to determine if data for the user purchasing a softgood are already included within the database; and if so,

(b) using a financial account number included in the data for implementing the purchase of the softgood; and

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(c) storing the unique identifier for the softgood purchased in association with the user, within the data of the database.

34. The system of Claim 32, wherein the registration value is further based on at least one of:

(a) a user identifier that identifies the purchaser of the softgood;

(b) an identifier for the creator of the softgood;

(c) a unique identification for the player program; and

(d) an identification of the purchaser of the softgood.

35. A system for facilitating automated sale of softgoods from which a revenue stream is returned to each creator of the softgoods, each softgood including a unique identifier, comprising:

(a) creator computers that execute at least one software program used by creators of the softgoods to produce the softgoods and to assign the unique identifier to the softgoods produced thereby, said creator computers including network interfaces that couple the creator computers to a publicly accessible network, the creators of the softgoods entering into agreements with an e-commerce agency in which the e-commerce agency agrees to facilitate the automated sale of the softgoods and to return a portion of the revenue stream from the automated sale to the creators of the softgoods; and

(b) a server computer operated by the e-commerce agency, said server computer maintaining a database in which data relating to the softgoods are stored, said data including unique identifiers for the softgoods, said server computer also including a network interface coupling the server computer in communication with the publicly accessible network and being configured to receive the unique identifier for each softgood from each of:

(i) the creator computers before distribution of the softgood to prospective purchasers; and

(ii) a user of the softgood at a sale of the softgood, a purchase of a softgood being initiated when a softgood is being used, said purchase by a user of the softgood causing the server computer to confirm approval of a credit transaction for the user by an on-line communication with a credit approval agency, and if the credit transaction is approved, to transmit a registration value over the publicly accessible network to a computer of the user to register the softgood on the computer of the user, and to enter data related to the purchase within the database, each registration value received being added to the computer of the user, a presence of a registration value corresponding to a specific softgood enabling playback of the specific softgood in a full mode,

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an absence of a registration value corresponding to the specific softgood enabling playback of the softgood only in a demo mode.

36. The system of Claim 35, wherein the registration value is based upon at least one of the user's name, the unique identifier for the softgood, an identifier for the creator of the softgood, and a unique identification of a player program that is executed on the computer of the user to play the softgood.

37. The system of Claim 35, wherein each of the softgoods includes at least one of an identification of a specific copy of the software program used to produce the softgood, an identification of the creator of the softgood, and a price of the softgood.

38. The system of Claim 35, wherein the server computer sends a current price to the user before the purchase is completed, said current price being stored in the data of the database.

39. The system of Claim 35, wherein the softgood enables the user to purchase the softgood while the softgood is being executed on the computer of the user.

40. The system of Claim 35, wherein a player program that is used to play the softgood communicates with the server computer over the network to facilitate the purchase of the softgood.

41. The system of Claim 35, wherein a preview of the softgood to a limited extent is permitted on the computer of the user before the softgood is purchased, and once the softgood is registered on the computer of the user using the registration value, use of the softgood on the computer of the user is permitted to an extent determined by a license of the softgood.

42. (Cancelled)

43. (Cancelled)

44. (Cancelled)

45. A method for facilitating automated sale of softgoods, comprising the steps of:

(a) providing to a creator of the softgoods a composer program that automatically includes a unique identifier in each softgood before the softgood is distributed to prospective purchasers, said unique identifier specifically referencing the creator of the softgoods, such that softgoods created using the composer program:

(i) require a specific player program to be accessed; and

(ii) do not include any copy protection that prohibits the softgood from being freely copied and freely distributed;

(b) providing an agency that implements softgood purchase transactions and

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maintains a database in which data relating to the sale of softgoods are stored, unique identifiers of the softgoods being referenced in the database to track the softgood purchase transactions, such that whenever a softgood is purchased, the agency provides a registration value corresponding to the unique identifier for the softgood purchased to a computing system used to purchase the softgood;

(c) providing the specific player program to prospective purchasers, such that each time the specific player program is used to play a softgood created using the composer program, the specific player program automatically:

(i) checks the computing system on which the specific player program is executing, to determine if a registration value corresponding to the unique identifier for the softgood has been provided to said computing system to register the softgood on the computing system, and if so, plays the softgood, providing access to its full range of benefits; but

(ii) if the registration value has not been provided to the computing system, only enables playing of the softgood in a preview mode, and prompts a user to purchase the softgood in a transaction with the agency; and

(d) distributing the softgoods to prospective purchasers, such distribution not being limited to distribution over a private network.

46. The method of Claim 45, wherein if the registration value has not been provided to the computing system, the specific player program automatically communicates with the agency to determine if the unique identifier for the softgood is associated with a purchase of the softgood made by a purchaser who is an authorized user of the computing system on which the specific player program is resident, and if so, plays the softgood with its full range of benefits.

47. A system for facilitating purchase of a softgood of which copies are freely distributed to prospective purchasers for preview prior to purchase, said softgood having a unique identifier that is included within the softgood before its distribution, comprising:

(a) a purchaser computer that includes a first processor coupled to a first memory in which a plurality of machine instructions are stored that implement a plurality of functions when executed by the first processor, a first network interface coupling the purchaser computer in communication with a network, at least one user interface for input of data to the first memory, and a display on which graphics and text are displayed;

(b) a remote computer that includes a second processor coupled to a second memory in which are stored a plurality of machine instructions that implement a plurality of

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functions when executed by the second processor, and in which a database containing data relating to purchases of softgoods are stored, a second network interface coupling the remote computer in communication with the network and thereby selectively coupling the remote computer in data communication with the purchaser computer via the network;

(c) the softgood comprising machine instructions or media data that are loaded into the first memory of the purchaser computer and not including any copy protection that prohibits the softgood from being freely copied and freely distributed, wherein other of the machine instructions stored in the first memory comprise a player program that uses the softgood, said player program causing the first processor to carry out a plurality of the functions when the machine instructions of the player program are executed by the first processor, including:

(i) determining if a registration value corresponding to the unique identifier of the softgood that is to be played has been provided to the purchaser computer, and if so, playing the softgood so as to provide access to its full range of benefits;

(ii) if a registration value corresponding to the unique identifier of the softgood that is to be played has not been provided to the purchaser computer, communicating with the database on the remote computer over the network to determine if an authorized user of the purchaser computer has previously purchased the softgood that is to be played, and if so, playing the softgood so as to provide access to its full range of benefits; and

(iii) if a registration value corresponding to the unique identifier of a softgood that is to be played has not been provided to purchaser computer on which the player program is resident, and if no authorized user of the purchaser computer has previously purchased the softgood that is to be played, playing the softgood so as to provide a limited access, to enable a preview of the softgood, and enabling a user of the purchaser computer to purchase the softgood in a transaction with the remote computer that is conducted over the network, such that when a softgood is purchased, a registration value corresponding to the unique identifier of a softgood is received with the softgood; and

(d) wherein said plurality of functions implemented by said second processor in the remote computer include:

(i) responding to a request to purchase the softgood received over the network from the purchaser computer;

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(ii) confirming an approval of a credit purchase by the user of the purchaser computer with a credit approval agency that is coupled to the network;

(iii) determining the registration value as a function of at least the unique identifier of the softgood;

(iv) sending the registration value to the remote computer over the network to register the softgood on the purchaser's computer; and

(v) allocating a portion of a purchase price of the softgood set by terms of a prior agreement to a creator of the softgood.

48. The method of Claim 45, wherein the softgood is not encrypted.

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